

# SENATE JOURNAL OF THE IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-NINTH LEGISLATURE

FIFTY-FIRST LEGISLATIVE DAY  
TUESDAY, FEBRUARY 26, 2008

Senate Chamber

President Risch called the Senate to order at 10 a.m.

Roll call showed all members present except Senators Burkett, Cameron, Gannon, Lodge, Schroeder, and Stegner, absent and excused.

Prayer was offered by Chaplain Goebel.

The Pledge of Allegiance was led by Austin Porter, Page.

The Senate advanced to the Third Order of Business.

## Reading and Correction of the Journal

Senators Cameron and Stegner were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 25, 2008, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

## Petitions, Resolutions and Memorials

### SCR 131

#### BY JUDICIARY AND RULES COMMITTEE

##### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND  
REJECTING A CERTAIN RULE OF THE REAL ESTATE  
COMMISSION RELATING TO RULES OF THE IDAHO REAL  
ESTATE COMMISSION.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Real Estate Commission relating to Rules of the Idaho Real Estate Commission is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 33.01.01, Rules of the Idaho Real Estate Commission, Section 500, Minimum Teaching Standards of the Commission, Subsection 08, only, adopted as a pending rule under Docket Number 33-0101-0702, Idaho Real Estate Commission, be, and the same is hereby rejected and declared null, void and of no force and effect.

### SCR 132

#### BY JUDICIARY AND RULES COMMITTEE

##### A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND  
REJECTING CERTAIN RULES OF THE DIVISION OF  
BUILDING SAFETY RELATING TO RULES GOVERNING  
CIVIL PENALTIES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Division of Building Safety relating to Rules Governing Civil Penalties are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 07.02.07, Rules Governing Civil Penalties, adopted as a pending rule under Docket Number 07-0207-0701, Division of Building Safety, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 131 and SCR 132 were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

## Reports of Standing Committees

Senators Burkett and Gannon were recorded present at this order of business.

February 26, 2008

The JUDICIARY AND RULES Committee reports that S 1439, S 1440, and S 1441 have been correctly printed.

DARRINGTON, Chairman

S 1439 was referred to the Finance Committee.

S 1440 was referred to the Transportation Committee.

S 1441 was referred to the State Affairs.

February 25, 2008

The JUDICIARY AND RULES Committee reports that **SCR 125** and **S 1349** have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **SCR 125** and **S 1349** and ordered them transmitted to the House for the signature of the Speaker.

February 25, 2008

The JUDICIARY AND RULES Committee reports that Enrolled **S 1248**, **S 1261**, **S 1262**, **S 1288**, and **S 1337** were delivered to the Office of the Governor at 2:30 p.m., February 25, 2008.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 25, 2008

The STATE AFFAIRS Committee reports out **S 1433** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

McKENZIE, Chairman

There being no objection, **S 1433** was referred to the Fourteenth Order of Business, General Calendar.

February 25, 2008

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Norman T. (Bud) Langerak to the Commission on Pardons and Parole, term to expire January 1, 2011.

DARRINGTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 25, 2008

The JUDICIARY AND RULES Committee reports out **S 1420** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1420** was referred to the Fourteenth Order of Business, General Calendar.

February 25, 2008

The JUDICIARY AND RULES Committee reports out **H 353**, **H 370**, and **H 408**, as amended, with the recommendation that they do pass.

DARRINGTON, Chairman

**H 353**, **H 370**, and **H 408**, as amended, were filed for second reading.

February 25, 2008

The HEALTH AND WELFARE Committee reports out **H 376**, as amended, **H 375**, **HJM 6**, **H 508**, and **H 443** with the recommendation that they do pass.

LODGE, Chairman

**H 376**, as amended, **H 375**, **H 508**, and **H 443** were filed for second reading

**HJM 6** was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 26, 2008

The FINANCE Committee reports out **S 1439** with the recommendation that it do pass.

CAMERON, Chairman

**S 1439** was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

Senators Lodge and Schroeder were recorded present at this order of business.

February 25, 2008

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

**S 1260** and **S 1272**

As Always - Idaho, '*Esto Perpetua*'  
/s/ C. L. 'Butch' Otter  
Governor of Idaho

The correspondence was ordered filed in the office of the Secretary of the Senate.

**Messages from the House**

February 25, 2008

Mr. President:

I transmit herewith **H 530, H 398, H 525, H 415, H 528, HJM 7, H 365**, as amended, **H 389**, as amended, **H 447**, as amended, **H 418**, as amended, **H 483**, as amended, and **H 496**, as amended, which have passed the House.

ALEXANDER, Chief Clerk

**H 530, H 398, H 525, H 415, H 528, HJM 7, H 365**, as amended, **H 389**, as amended, **H 447**, as amended, **H 418**, as amended, **H 483**, as amended, and **H 496**, as amended, were filed for first reading.

February 25, 2008

Mr. President:

I return herewith **S 1306** and **S 1355**, which have passed the House.

ALEXANDER, Chief Clerk

**S 1306** and **S 1355** were referred to the Judiciary and Rules Committee for enrolling.

February 25, 2008

Mr. President:

I return herewith Enrolled **S 1250, S 1273, S 1282, S 1287, S 1307, S 1317, S 1322, S 1342**, and **S 1274**, which have been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled **S 1250, S 1273, S 1282, S 1287, S 1307, S 1317, S 1322, S 1342**, and **S 1274** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,  
House Petitions, Resolutions, and Memorials**

**S 1442****BY STATE AFFAIRS COMMITTEE**

## AN ACT

RELATING TO DRIVER'S INSTRUCTION PERMITS; AMENDING SECTION 49-110, IDAHO CODE, TO REVISE THE DEFINITIONS OF "CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT" AND "CLASS D INSTRUCTION PERMIT"; AMENDING SECTION 49-302, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 49-303, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 49-305, IDAHO

CODE, TO PROVIDE AN EXPIRATION DATE FOR CERTAIN CLASS D INSTRUCTION PERMITS, TO PROVIDE CORRECT TERMINOLOGY, TO SPECIFY AGE AND OTHER QUALIFICATIONS FOR OBTAINING A PERMIT AND TO DELETE REFERENCE TO APPLICATION FOR A CLASS D DRIVER'S TRAINING INSTRUCTION PERMIT; AND AMENDING SECTION 49-307, IDAHO CODE, TO PROVIDE CONDITIONS FOR ISSUANCE AND EXPIRATION OF CLASS D DRIVER'S TRAINING INSTRUCTION AND CLASS D INSTRUCTION PERMITS, TO REVISE THE FEE FOR ALL DRIVER'S TRAINING INSTRUCTION PERMITS AND TO REVISE THE DISTRIBUTION OF FEES, TO PROVIDE FOR ISSUANCE OF TEMPORARY PERMITS, TO SPECIFY A CONDITION UNDER WHICH A CLASS D SUPERVISED INSTRUCTION PERMIT BECOMES A CLASS D INSTRUCTION PERMIT AND TO PROVIDE FOR EXPIRATION OF SUCH INSTRUCTION PERMIT, TO CLARIFY THE REQUIREMENTS FOR OPERATING A CLASS D VEHICLE WITH A CLASS D SUPERVISED INSTRUCTION PERMIT AND TO MAKE TECHNICAL CORRECTIONS.

**S 1443****BY JUDICIARY AND RULES COMMITTEE**

## AN ACT

RELATING TO POWERS AND DUTIES OF BOARDS OF TRUSTEES OF SCHOOL DISTRICTS; AMENDING SECTION 33-520, IDAHO CODE, TO PROVIDE THAT SCHOOL DISTRICT BOARDS OF TRUSTEES SHALL ADOPT POLICIES PERMITTING THE SELF-ADMINISTRATION OF MEDICATION, ADMINISTERED BY WAY OF AN EPINEPHRINE AUTO-INJECTOR, BY PUPILS.

**S 1444****BY JUDICIARY AND RULES COMMITTEE**

## AN ACT

RELATING TO VOLUNTEER EMERGENCY RESPONDER DISABILITY BENEFITS; AMENDING SECTION 72-102, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION 72-205, IDAHO CODE, TO REVISE THE DESIGNATION OF EMPLOYEES IN PUBLIC EMPLOYMENT AND THEIR EMPLOYERS SUBJECT TO THE WORKER'S COMPENSATION ACT; AMENDING SECTION 72-419, IDAHO CODE, TO REMOVE THE DETERMINATION OF AVERAGE WEEKLY WAGE FOR VOLUNTEER FIREMEN, POLICE AND CIVIL DEFENSE MEMBERS OR TRAINEES AND TO PROVIDE FOR THE DETERMINATION OF AVERAGE WEEKLY WAGE FOR VOLUNTEER EMERGENCY RESPONDERS BASED ON IDAHO CODE; AND AMENDING CHAPTER 4, TITLE 72, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 72-408A, IDAHO CODE, TO PROVIDE FOR THE PAYMENT OF TOTAL AND PERMANENT DISABILITY BENEFITS TO VOLUNTEER EMERGENCY RESPONDERS.

**S 1442, S 1443**, and **S 1444** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**H 530**, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

**H 398**, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

**H 525**, by Local Government Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

**H 415**, by Commerce and Human Resources Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

**H 528**, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

**HJM 7**, by State Affairs Committee, was introduced, read at length, and referred to the State Affairs Committee.

**H 365**, as amended, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

**H 389**, as amended, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

**H 447**, as amended, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

**H 418**, as amended, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

**H 483**, as amended, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

**H 496**, as amended, by Commerce and Human Resources Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

The Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

**H 445**, by State Affairs Committee, was read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

### General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President Pro Tempore called the Senate to order.

### Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out **S 1400** and **S 1379**, without recommendation, amended as follows:

### SENATE AMENDMENT TO S 1400

#### AMENDMENT TO SECTION 1

On page 1 of the printed bill, in line 32, following "or" insert: "recorded"; in line 33, following "price" insert: "less or net the value of personal property"; and delete line 35 and insert: "townhouses, condominiums or residential units up to a fourplex."

On page 2, in line 8, delete "cause to be delivered" and insert: "be solely responsible to have delivered"; in line 17, following "reconveyance," insert: "a trustee's deed after a nonjudicial foreclosure,"; and in line 38, following "official" insert: ", as defined in section 59-703, Idaho Code,".

### SENATE AMENDMENT TO S 1379

#### AMENDMENTS TO SECTION 3

On page 7 of the printed bill, following line 17, insert:

"(7) Chains as required in subsection (6)(a) and (b) of this section mean "chains" as defined in section 49-104, Idaho Code. Any other traction device differing from chains in construction, material or design but capable of providing traction equal to or exceeding that of chains under similar conditions may be used."; in line 18, delete "(7)" and insert: "(8)"; and in line 22, delete "(8)" and insert: "(9)".

### CORRECTION TO TITLE

On page 1, in line 6, following "CHAINS" insert: "OR CERTAIN OTHER TRACTION DEVICE".

The Committee also has **S 1361**, **S 1329**, **S 1398**, and **S 1399** under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Langhorst, the report was adopted by voice vote.

**S 1400**, as amended, and **S 1379**, as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Keough, granted by unanimous consent, **S 1353** was recommitted to the Resources and Environment Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Thirteenth Order of Business.

### Third Reading of Bills

On request by Senator Lodge, granted by unanimous consent, **S 1414**, having been held, was referred to the Fourteenth Order of Business, General Calendar.

**S 1390** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McGee arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--Schroeder. Total - 1.

Absent and excused--Jorgenson. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1390** passed, title was approved, and the bill ordered transmitted to the House.

**S 1402** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stennett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Sagness (Malepeai), Schroeder, Stegner, Stennett, Werk. Total - 30.

NAYS--Bair, Pearce, Richardson, Siddoway. Total - 4.

Absent and excused--Jorgenson. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1402** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Little, granted by unanimous consent, **S 1252**, as amended, retained its place on the Third Reading Calendar for one legislative day.

**S 1403**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Jorgenson. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1403**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

**S 1415**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Siddoway, Stegner, Stennett, Werk. Total - 33.

NAYS--None.

Absent and excused--Jorgenson, Schroeder. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1415**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

**S 1422**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Jorgenson. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **S 1422**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

The President returned to the Chair.

**S 1431**, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Werk arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond, Heinrich, Hill, Kelly, Keough, Langhorst, Little, Lodge, McGee, McKague, McKenzie, Pearce, Richardson, Sagness (Malepeai), Schroeder, Siddoway, Stegner, Stennett, Werk. Total - 34.

NAYS--None.

Absent and excused--Jorgenson. Total - 1.

Total - 35.

Whereupon the President declared **S 1431**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, **H 445** was placed at the head of the Third Reading Calendar, followed by all Senate bills, followed by remaining House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:08 p.m. until the hour of 10 a.m., Wednesday, February 27, 2008.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary